

CLERK'S COVER PAGE

United States Court of Appeals for the Eleventh Circuit
Clerk's Office Submission — Pro Se Emergency Filing

From:

Mario Mirabal

563 W. 49th Street

Miami Beach, FL 33140

solphax@gmail.com

786.479.6596



To:

Office of the Clerk

United States Court of Appeals for the Eleventh Circuit

56 Forsyth Street, N.W.

Atlanta, GA 30303

Re:

Filing in Case Nos.:

25-10858; 25-10862; 25-11120; 25-11182; 25-11183; 25-11254

Enclosed Emergency Motion:

EMERGENCY RULE 27 MOTION TO STAY STATE COURT CAESE

**NO. 2024-022769-CA-01 PROCEEDINGS, ENFORCE THE
SUPREMACY CLAUSE OF THE U.S. CONSTITUTION (ARTICLE VI,
CLAUSE 2), AND ENFORCEMENT OF VOID TITLE PENDING
FEDERAL APPEALS AND RULE 60(d)(3) FRAUD REVIEW**

Included Documents:

Court Cover Page

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Emergency Rule 27 Motion (with Appendices A–D)

Certificate of Service

Certificate of Compliance

Certificate of Interested Persons

**Please docket this Emergency Motion in all referenced appeals and forward
it to the appropriate judicial panel for immediate review.**

Respectfully submitted,

Mario Mirabal

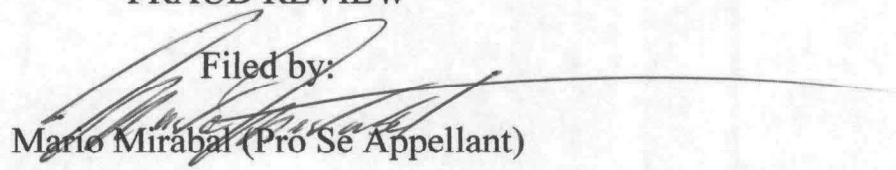
IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

Case Nos.:

25-10858; 25-10862; 25-11120; 25-11182; 25-11183; 25-11254

EMERGENCY RULE 27 MOTION TO STAY STATE COURT
PROCEEDINGS, ENFORCE THE SUPREMACY CLAUSE OF THE U.S.
CONSTITUTION (ARTICLE VI, CLAUSE 2), AND ENFORCEMENT OF
VOID TITLE PENDING FEDERAL APPEALS AND RULE 60(d)(3)
FRAUD REVIEW

Filed by:


Mario Mirabal (Pro Se Appellant)

563 W. 49th Street

Miami Beach, FL 33140

solphax@gmail.com

786.479.6596

Dated: May 30, 2025

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Emergency Rule 27 Motion

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Appendix B – State Court Hearing Setting Notice (June 18, 2025)

Appendix C – Defendant’s Jurisdictional Objection and Supremacy Filing

Appendix D – Plaintiff’s Motion to Compel Deposition

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IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

Case Nos.:

25-10858; 25-10862; 25-11120; 25-11182; 25-11183; 25-11254

EMERGENCY RULE 27 MOTION TO STAY STATE COURT
PROCEEDINGS, ENFORCE THE SUPREMACY CLAUSE OF THE U.S.
CONSTITUTION (ARTICLE VI, CLAUSE 2), AND ENFORCEMENT OF
VOID TITLE PENDING FEDERAL APPEALS AND RULE 60(d)(3)

FRAUD REVIEW

Filed by:

Mario Mirabal (Pro Se Appellant)

563 W. 49th Street

Miami Beach, FL 33140

solphax@gmail.com

786.479.6596

May 30, 2025

TO THE HONORABLE COURT:

Pursuant to Federal Rule of Appellate Procedure 27 and 28 U.S.C. § 1651 (All Writs Act), Appellant Mario Mirabal, pro se, respectfully moves this Court to issue an emergency stay of all further proceedings in the state court case KP Investments Miami, LLC v. Mario Mirabal, Case No. 2024-022769-CA-01 (11th Judicial Circuit, Miami-Dade County), in order to protect the Court's jurisdiction over pending appeals and to prevent further enforcement of a title obtained through fraud and concealment.

I. IMMINENT THREAT OF JURISDICTIONAL INTERFERENCE

On May 27, 2025, Plaintiff KP Investments noticed a deposition of Appellant for June 10, 2025, seeking testimony and documents under a claim to title that is presently under federal review and the subject of multiple Rule 60(d)(3) fraud motions and federal scrutiny.

On May 28, 2025, the state trial court (Judge Ariana Fajardo Orshan) scheduled a hearing on Plaintiff's Motion to Compel Deposition, to be held on June 18, 2025, despite:

Appellant's formal Supremacy Clause-based objection,

Multiple federal appeals pending before this Court,

Two Supplemental Judicial Notices already submitted documenting KP's and Deutsche Bank's refusal to rescind litigation positions despite formal federal off-ramp notices and fraud allegations.

Appellant has submitted filings to this Court, the U.S. Department of Justice, and other federal authorities under the seal of law regarding the systemic nature of the fraud, obstruction, and concealment in the underlying state action, which involve contested title, suppressed evidence, and unlawful asset transfers through foreclosure manipulation.

II. FEDERAL REVIEW IS ONGOING AND MUST BE PROTECTED

The validity of Plaintiff's claim rests entirely on a warranty deed transferred during a foreclosure proceeding that was dismissed with prejudice by Judge Bokor, based on a settlement in favor of the Defendant. That dismissal was followed by a deceptive filing to Judge Brinkley and a concealed title transfer to KP Investments — all while a Rule 1.540(b) motion for fraud was pending.

Appellant has filed six related appeals and jurisdictional motions with this Court, including active Rule 60(d)(3) claims asserting fraud upon the court, and has fully invoked the Supremacy Clause of the United States Constitution (Article VI, Clause 2) as a bar to further state court activity.

The state court has Defendant's motions asserting federal preemption and has now taken judicial action only on Plaintiff's motion to compel, confirming that active litigation is continuing despite federal divestiture.

III. RELIEF REQUESTED

Appellant respectfully requests that this Court:

Immediately stay all proceedings in KP Investments Miami, LLC v. Mario Mirabal, Case No. 2024-022769-CA-01, including the June 10, 2025

deposition and June 18, 2025 hearing;

Reaffirm that jurisdiction over the disputed title and litigation conduct now lies with this Court, under active Rule 60(d)(3) review and sealed federal oversight;

Instruct the lower court to take no further action until this Court has resolved the appeals involving fraud upon the court, procedural misconduct, and jurisdictional irregularities;

Refer or transmit this motion and its supporting record to the U.S. Department of Justice and Federal Bureau of Investigation for review of ongoing fraud upon the court and interference with federal jurisdiction in Case No. 2024-022769-CA-01;

Grant any other relief deemed necessary to preserve appellate jurisdiction and the supremacy of federal review over the tainted state litigation record.

IV. CERTIFICATION OF EMERGENCY

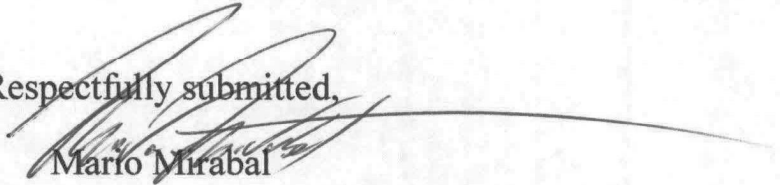
Appellant certifies that this motion is submitted as an emergency because:

A deposition is scheduled for June 10, 2025 under a void title,

A hearing to compel that deposition is scheduled for June 18, 2025, without consideration of Defendant's federal filings,

The motion seeks to prevent irreparable harm and to preserve the jurisdiction of this Court.

Respectfully submitted,


Mario Mirabal

Pro Se Appellant

563 W. 49th Street

Miami Beach, FL 33140

solphax@gmail.com

786.479.6596

May 30, 2025

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing EMERGENCY RULE 27 MOTION TO STAY STATE COURT PROCEEDINGS, ENFORCE THE SUPREMACY CLAUSE OF THE U.S. CONSTITUTION (ARTICLE VI, CLAUSE 2), AND ENFORCEMENT OF VOID TITLE PENDING FEDERAL APPEALS AND RULE 60(d)(3) FRAUD REVIEW was served via U.S. Mail on this 30th day of May, 2025, to:

Tyrone A. Adras, Esq. C. Wade Bowden, Esq. Ari H. Newman, Esq.

Greenberg Traurig, P.A.

333 SE 2nd Avenue, Suite 4400

Miami, FL 33131

Matthew Marks, Esq.

Brock & Scott, PLLC

2001 NW 64th Street, Suite 130

Fort Lauderdale, FL 33309

Counsel for KP Investments Miami, LLC

John Cunill, Esq.

Adorno-Cunill & Damas, PL

1000 Brickell Avenue, Suite 720

Miami, Florida 33131

Kenneth M. Damas, Esq.

300 Sevilla Ave Ste 210

Coral Gables, FL 33134

Clerk, U.S. Court of Appeals for the Eleventh Circuit

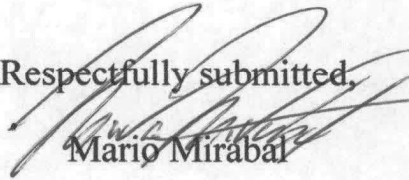
56 Forsyth Street, N.W., Atlanta, GA 30303

Each recipient was served in connection with their role in the related lower court proceedings and as counsel of record in one or more consolidated

appeals.

The full filing is available to all parties via the PACER system.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mario Mirabal', is written over the typed name.

Mario Mirabal

Pro Se Appellant

563 W. 49th Street

Miami Beach, FL 33140

solphax@gmail.com

786.479.6596

May 30, 2025

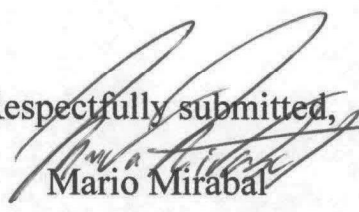
CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g)(1), I certify that this motion complies with the applicable type-volume limitation and formatting requirements.

This document has been prepared in a proportionally spaced typeface using 14-point Times New Roman font.

The body of the motion, excluding the cover page, table of contents, certificates, and appendices, contains fewer than 2,600 words, in accordance with the emergency motion limitation under Rule 27.

Respectfully submitted,


Mario Mirabal

Pro Se Appellant

563 W. 49th Street

Miami Beach, FL 33140

solphax@gmail.com

786.479.6596

May 30, 2025

Appendix A

**IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT
IN AND FOR MIAMI DADE COUNTY, FLORIDA**

Case No.: 2024-022769-CA-01

Division: Civil

KP INVESTMENTS MIAMI, LLC, a Limited
Liability Company

Plaintiff,

vs.

MARIO MIRABAL

Defendant

_____ /

**NOTICE OF DEPOSITION ON ORAL EXAMINATION
AND DUCES TECUM**

TO: MARIO MIRABAL
563 W. 49th Street
Miami Beach, FL 33140

Please take notice that, pursuant to Rule 1.310 of the Florida Rules of Civil Procedure, Plaintiff, KP INVESTMENTS MIAMI, LLC, a Limited Liability Company, by and through their Attorney, John Cunill, will take the oral deposition of MARIO MIRABAL, beginning on June 10, 2025 at 10:00 a.m., and continue thereafter from day to day, excluding Sundays and holidays, until completed, at 1000 Brickell Avenue, Suite 1100, Miami, FL 33131.

Please take further notice that in connection with the taking of this deposition, and pursuant to Rules 1.310(b)(5) and 1.350 of the Florida Rules of Civil Procedure, the deponent shall, upon commencement of the deposition, produce the items described in the list attached hereto as Exhibit "A," which is made a part of this Notice for all purposes.

You are invited to attend and examine the witness.

Americans with Disabilities Act (ADA)

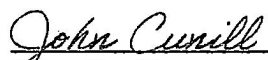
If you qualify under the **Americans with Disabilities Act (ADA)** and need assistance, please visit the Eleventh Judicial Circuit of Florida or you may contact the ADA Coordinator at: **E-mail: ADA Coordinator** at ADA@jud11.flcourts.org; **Voice Mail #:** 305-349-7175; **TDD #:** 305-349- 7174; **Fax #:** 305-349-7355. If you are hearing or voice impaired, please call 711 or 1-800-955-8771 for the Florida Relay Service.

CERTIFICATION

I hereby certify that, undersigned counsel has made a good-faith effort to coordinate the scheduling of the deposition with all parties involved.

CERTIFICATE OF SERVICE

I certify that a copy of this document was e-mailed, electronically served via the Florida Courts E-Filing Portal and mailed to MARIO MIRABAL, 563 W. 49th Street, Miami Beach, FL 33140, e-mail address solphax@gmail.com, on May 27, 2025.



John Cunill

Attorney for Plaintiff
Florida Bar Number: 101733
Law Offices of Adorno & Cunill PL
1000 Brickell Avenue
Suite 1100
MIAMI, FL 33131
Telephone: (305) 381-9999
Fax: (305) 381-9898
E-Mail: john@acfirm.com
Secondary E-Mail: john@adornocunill.com

DEFINITIONS

1. As used herein, the terms "you" and "your" shall refer to MARIO MIRABAL, MARIO MIRABAL's attorneys, agents, representatives, predecessors and successors in interest, officers, directors, partners, assignees, transferees, employees, servants, parent and subsidiary companies, affiliated companies, partnerships and all other natural persons or business or legal entities acting or purporting to act for or on behalf of MARIO MIRABAL, whether authorized to do so or not.

2. As used herein, the term "documents" includes all materials within the scope of Rules 1.280 and 1.340 of the Florida Rules of Civil Procedure and shall mean all writings of every kind, source and authorship, both originals and all nonidentical copies thereof, in your actual or constructive possession, custody, care, or control, or known by you to exist, irrespective of whether the writing is one intended for or transmitted internally by you, or intended for or transmitted to any other person or entity, including without limitation any government agency, department, administrative, or private entity or person. The term shall include handwritten, typewritten, printed, photocopied, photographic, or recorded matter. It shall include communications in words, symbols, pictures, sound recordings, films, tapes, and information stored in, or accessible through, computer or other information storage or retrieval systems, together with the codes and/or programming instructions and other materials necessary to understand and use such systems. For purposes of illustration and not limitation, the term shall include: affidavits; agendas; agreements; analyses; announcements; bills, statements, and other records of obligations and expenditures; books; brochures; bulletins; calendars; canceled checks, vouchers, receipts and other records of payments; charts or drawings; check registers; checkbooks; circulars; collateral files and contents; contracts; corporate bylaws; corporate charters; correspondence; credit files and contents; deeds of trust; deposit slips; diaries; drafts; files; guaranty agreements; instructions; invoices; ledgers, journals, balance sheets, profit and loss statements, and other sources of financial data; letters; logs, notes, or memoranda of telephonic or face-to-face conversations; manuals; memoranda of all kinds, to and from any persons, agencies, or entities; minutes; minute books; notes; notices; parts lists; papers; press releases; printed matter (including books, articles, speeches, and newspaper clippings); purchase orders; records; records of administrative, technical, and financial actions taken or

recommended; reports; safety deposit boxes and contents and records of entry; schedules; security agreements; specifications; statements of bank accounts; statements; interviews; stock transfer ledgers; technical and engineering reports, evaluations, advice, recommendations, commentaries, conclusions, studies, test plans, manuals, procedures, data, reports, results, and conclusions; summaries, notes, and other records and recordings of any conferences, meetings, visits, statements, interviews or telephone conversations; telegrams; teletypes and other communications sent or received; transcripts of testimony; UCC instruments; work papers; and all other writings, the contents of which relate to, discuss, consider, or otherwise refer to the subject matter of the particular document requested or referred to. A document is deemed to be in your actual or constructive possession, custody, care, or control if you either have physical possession of the item or have the right, authority or ability to obtain the document.

3. "Date" means the exact date, month, and year, if ascertainable, or, if not, the best approximation of the date based on surrounding events.

4. "Person": The term "person" shall include individuals, associations, partnerships, corporations, and any other type of entity or institution whether formed for business purposes or any other purposes.

5. "Identify" or "Identification":

(a) When used in reference to a person, "identify" or "identification" means to state his or her full name, present or last known residence address, present or last known business address and telephone number.

(b) When used in reference to a public or private corporation, governmental entity, partnership or association, "identify" or "identification" means to state its full name, present or last known business address or operating address, the name of its Chief Executive Officer and telephone number.

(c) When used in reference to a document, "identify" or "identification" shall

include statement of the following:

(i) the title, heading, or caption, if any, of such document;

(ii) the identifying number(s), letter(s), or combination thereof, if any; and the significance or meaning of such number(s), letter(s), or combination thereof, if necessary to an understanding of the document and evaluation of any claim of protection from discovery;

(iii) the date appearing on such document; if no date appears thereon, the answer shall so state and shall give the date or approximate date on which such document was prepared;

(iv) the number of pages and the general nature or description of such document (i.e., whether it is a letter, memorandum, minutes of a meeting, etc.), with sufficient particularity so as to enable such document to be precisely identified;

(v) the name and capacity of the person who signed such document; if it was not signed, the answer shall so state and shall give the name of the person or persons who prepared it;

(vi) the name and capacity of the person to whom such document was addressed and the name and capacity of such person, other than such addressee, to whom such document, or a copy thereof, was sent; and

(vii) the physical location of the document and the name of its custodian or custodians.

(d) When used in reference to a communication, "identify" or "identification" means to state the date and place of the communication, the persons who participated in

it, all documents relating to it, whether the communication was oral, and if oral, the substance of the communication.

6. "Communication" means any contact, oral or written, formal or informal, by which information of any nature was transmitted, transferred, or exchanged, and includes any oral or written statement, dialogue, discussion, conversation, and any transfer of data by electronic or similar means.

7. "Property" means the property located at 563 W. 49th Street, Miami Beach, FL 33140.

8. "Reflect" and "reflecting" shall be construed as relating to, referring to, responding to, pertaining to, connected with, regarding, discussing, showing, exhibiting, describing, concerning, analyzing, and constituting.

9. "Related to" includes within it meaning reflect, mention, pertain to, arise out of or in connection with, directly or indirectly refer to, and describe.

10. Unless a date or date range is specified in a particular document request, the applicable period of time for each document request is as follows: beginning from January 1, 2018, up to and including the present date.

11. Capitalized terms not identified herein shall have the meanings ascribed to them in the Complaint.

EXHIBIT A
DOCUMENTS AND ITEMS TO BE PRODUCED

1. All property deeds for the property located at 563 W. 49th Street, Miami Beach, FL 33140, which reflect any ownership you may have in the property.
2. Copies of any payments made by you to Plaintiff for occupancy of the property.
3. Copies of any receipts or payments made for property taxes paid by you for the property.
4. Copies of any receipts or payments made for property insurance paid by you for the property.

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

Case No.: 2024-022769-CA-01

Division: Civil

KP INVESTMENTS MIAMI, LLC, a
Limited Liability Company

Plaintiff,

vs.

MARIO MIRABAL

Defendant

**AFFIDAVIT IN SUPPORT OF PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT**

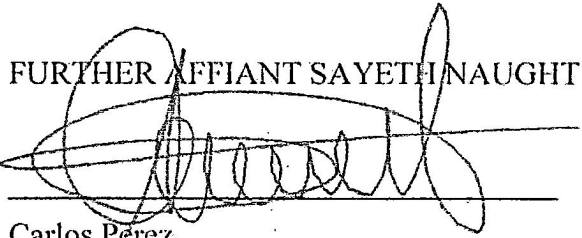
Affidavit of Carlos Perez

**STATE OF FLORIDA
COUNTY OF MIAMI-DADE**

BEFORE ME, the undersigned authority, personally appeared Carlos Perez, who, after being duly sworn, deposes and states as follows:

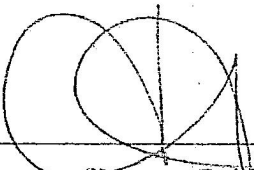
1. My name is Carlos Perez, and I am the sole member of KP Investments Miami LLC, a Florida Limited Liability Company, and I have personal knowledge of the facts stated herein.
2. I have reviewed all of the facts pled in Plaintiff's Motion for Summary Judgment and confirm that the facts pled are true and correct to the best of my knowledge and belief.
3. KP Investments Miami LLC, purchased the property located at 563 W. 49th Street, Miami Beach, FL 33140 ("Property") on November 20, 2024, and is the legal owner of the property. Attached to this affidavit, as **EXHIBIT A**, is a true and correct copy of the settlement statement for the purchase of the property.
4. Defendant, Mario Mirabal has no legal right to occupy the property and occupies the property without paying anything for it.
5. Despite numerous demands to vacate the property, Mario Mirabal continues to occupy the property unlawfully.

FURTHER AFFIANT SAYETH NAUGHT.



Carlos Perez,
Sole Member, KP Investments Miami LLC

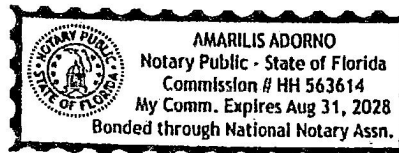
The foregoing instrument was sworn to and subscribed before me by means of ☒ physical presence or ☐ online notarization on this day of May 28th, 2025 by Carlos Perez, as Sole Member, KP Investments Miami LLC.



Signature of Notary Public

Name: Amarilis Adorno

My Commission Expires: _____



Personally Known: X OR Produced Identification: _____

Type of Identification Produced: _____

APR 21 2025

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

KP INVESTMENTS MIAMI, LLC, a
Florida Limited Liability Company,

Case No.: 2024-022769-CA-01

Plaintiff,

Vs

Judge.: Ariana Fajardo Oshan

MARIO MIRABAL
and all those in possession

Defendant.

_____ /

NOTICE OF HEARING

NOTICE IS GIVEN that a hearing on Defendant's Motion to Compel has been set for June 18, 2025, at 11:15 a.m. or as soon after that time as the docket permits, the matter will be heard in front of the Honorable Ariana Fajardo Orshan via Zoom.

You will receive a notice by email if you are on the E-Filing Portal service list or US Mail from the Court with the information you need to connect to your event by video or phone. You may also register for text notification via link below:

<https://cmap.jud11.flcourts.org/ebench/textNotificationsRegistration.jsp>

Americans with Disabilities Act (ADA)

If you qualify under the **Americans with Disabilities Act (ADA)** and need assistance, please visit the Eleventh Judicial Circuit of Florida or you may contact the ADA Coordinator at: **E-mail: ADA Coordinator at ADA@jud11.flcourts.org; Voice Mail #: 305-349-7175; TDD #: 305-349- 7174; Fax #: 305-349-7355.** If you are hearing or voice impaired, please call 711 or 1-800-955-8771 for the Florida Relay Service.

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of May 2024, a true and correct copy of the Plaintiff's Motion for Default was served to the Defendant, Mario Mirabal, by e-filing in accordance with the Florida Rules of Judicial Administration. Additionally, a copy was sent via email to the Defendant's email address at: solphax@gmail.com.

/s/ John Cunill

John Cunill

Attorney for Plaintiff

Florida Bar Number: 101733

Law Offices of Adorno & Cunill, PL

1000 Brickell Ave. Ste. 1100

Miami, FL 33131

Telephone: (305) 381-9999

Fax: (305) 381-9898

E-Mail: john@acfirm.com

Appendix C

IN THE CIRCUIT COURT
OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
CIVIL DIVISION
CASE NO.: 2024-022769-CA-01

KP INVESTMENTS MIAMI, LLC,

Plaintiff,

v.

MARIO MIRABAL,

Defendant.

REQUEST FOR HEARING ON DEFENDANT'S OBJECTION TO
NOTICE OF DEPOSITION AND NOTICE OF BARRED PROCEEDINGS
UNDER FEDERAL SUPREMACY AND RULE 60(d)(3) FRAUD CLAIMS

COMES NOW Defendant, Mario Mirabal, pro se, and respectfully submits
this objection and motion for protective notice in response to Plaintiff KP
Investments Miami, LLC's Notice of Deposition filed on May 27, 2025.

Defendant objects to the deposition in its entirety and submits that this Court
is barred from permitting further action in this matter under the Supremacy
Clause of the United States Constitution (Article VI, Clause 2), as jurisdiction
has been divested and is currently under review in multiple federal

proceedings, including active appeals before the Eleventh Circuit involving fraud upon the court under Rule 60(d)(3).

This submission is made solely to preserve the record and notify the Court that no further proceedings may lawfully advance in state court while federal review is ongoing.

I. BACKGROUND

This case arises from Plaintiff's attempt to eject Defendant from his homestead based on a warranty deed issued during the pendency of a foreclosure case that had been previously dismissed with prejudice by Judge Bokor, following a settlement in favor of the Defendant — a settlement that Deutsche Bank failed to honor.

After Judge Bokor's reassignment, the foreclosure case was transferred to Judge Brinkley. Deutsche Bank then filed a motion to dismiss the foreclosure case without prejudice, under false pretenses, and without disclosing that it had already conveyed the property to KP Investments via warranty deed.

This maneuver was used to circumvent Defendant's pending Rule 1.540(b) motion for fraud and collusion, his active bankruptcy protections, and ongoing federal adversary proceedings challenging the legitimacy of the foreclosure and KP's derivative claim.

KP is now pursuing discovery in this ejectment case — after refusing to rescind its title position following formal federal notice — while multiple Eleventh Circuit appeals, Rule 60(d)(3) fraud filings, and federal notifications are actively pending.

II. GROUNDS FOR OBJECTION

A. Lack of Jurisdiction – Ongoing Federal Oversight

This Court lacks jurisdiction, under the Supremacy Clause (U.S. Const. art. VI, cl. 2), to enforce discovery or permit Plaintiff's litigation to advance, as the subject matter is under active review in multiple federal proceedings and is the subject of sealed filings before the Eleventh Circuit.

Permitting a deposition now would allow Plaintiff to proceed with discovery under a claim that is already void as a matter of law, based on undisputed documentary evidence of coordinated fraud and concealment currently before this Court, the Eleventh Circuit, the U.S. Department of Justice, and the Federal Bureau of Investigation in connection with Rule 60(d)(3) filings and formal rescission notices.

B. Improper Purpose – Harassment and Procedural Abuse

Plaintiff's deposition request is further evidence of continued misrepresentation and fraud upon the court. It follows:

Plaintiff's refusal to rescind its litigation posture after federal notice;

A second summary judgment motion filed while jurisdiction lies with the federal courts and active appellate review is ongoing

A well-documented pattern of procedural abuse and evasion.

This deposition motion is designed to harass Defendant and/or improperly salvage Plaintiff's second summary judgment attempt, which is already infected by procedural misconduct and jurisdictional fraud.

C. Void Title and Lack of Standing

Plaintiff's claim to title is derivative of a foreclosure judgment that never existed. Instead:

The foreclosure was dismissed with prejudice by Judge Bokor;

The deed was then transferred to KP before Deutsche Bank filed its motion to dismiss without prejudice, effectively committing fraud upon the court in collusion with KP Investments and their agents.

Plaintiff now seeks to litigate possession and conduct discovery based on a void title, created through concealment of material facts, bypassing federal protections, and in defiance of pending appellate review. Plaintiff has no standing to proceed.

III. REQUEST FOR CALENDARING OR NOTICE OF RECORD

As communicated by the Judicial Assistant for Judge Orshan, this Court presently manages over 2,000 cases and does not routinely review motions unless a hearing is formally requested.

Defendant therefore makes this hearing request solely to ensure the Court takes notice of the filing and does not overlook it administratively. However, Defendant respectfully submits that this Court may not take further action in this matter, with or without a hearing, as jurisdiction has been divested under the Supremacy Clause of the United States Constitution (Article VI, Clause 2).

This hearing request is made only to preserve the record in light of the following related filings, all of which remain pending in connection with federal appellate review and jurisdictional oversight:

**NOTICE OF FEDERAL FRAUD-BASED MOTION UNDER REVIEW IN
ELEVENTH CIRCUIT under Rule 60(d)(3)**

**MOTION FOR HEARING AND DEFENDANT'S EMERGENCY
MOTION TO STRIKE PLAINTIFF'S SECOND MOTION FOR
SUMMARY JUDGMENT AND TO STAY ALL PROCEEDINGS
PENDING FEDERAL REVIEW**

**MOTION FOR HEARING AND NOTICE OF WILLFUL REFUSAL TO
RESCIND TITLE CLAIM AND LITIGATION POSITION FOLLOWING
FEDERAL OFFRAMP**

**REQUEST FOR HEARING AND DEFENDANT'S MOTION IN
OPPOSITION TO PLAINTIFF'S SECOND MOTION FOR SUMMARY
JUDGMENT**

Defendant respectfully submits that a hearing is not necessary, as the

jurisdictional and legal defects raised herein do not permit this Court to proceed. This request is made solely to preserve the record and ensure administrative notice of the filings in light of pending federal review

WHEREFORE, Defendant respectfully objects to Plaintiff's Notice of Deposition and requests that the Court take no further action, as jurisdiction over this matter has been divested under federal law and is currently under review by the Eleventh Circuit.

Defendant submits this objection and request for hearing only to preserve the record and ensure proper docket recognition of ongoing federal proceedings, including pending Rule 60(d)(3) motions and sealed federal oversight.

Nothing herein shall be construed as conceding jurisdiction to this Court, which remains barred from proceeding under the Supremacy Clause of the United States Constitution (Article VI, Clause 2).

To the extent prior filings requested relief from this Court, such requests were made solely to preserve the record and do not constitute a waiver of Defendant's continuing jurisdictional objection under Article VI, Clause 2 of the U.S. Constitution.

Respectfully submitted,

Mario Mirabal

Pro Se Defendant

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solphax@gmail.com

786.479.6596

May 28, 2025

Appendix D

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

Case No.: 2024-022769-CA-01

Division: Civil

KP INVESTMENTS MIAMI, LLC, a Limited
Liability Company

Plaintiff,

vs.

MARIO MIRABAL

Defendant

_____ /

**PLAINTIFF'S MOTION TO COMPEL A DATE AND TIME CERTAIN FOR
DEFENDANT'S DEPOSITION**

COMES NOW, the Plaintiff, KP INVESTMENTS MIAMI, LLC, by and through undersigned counsel, and pursuant to the Florida Rules of Civil Procedure 1.380, hereby files this Motion to Compel a Date and Time Certain for the Defendant's Deposition, and in support thereof states as follows:

BACKGROUND

1. Plaintiff filed the present action on November 27, 2024.
2. Since the filing of this action Defendant has filed numerous frivolous pleadings with this Court.
3. On May 23, 2025, Plaintiff filed Plaintiff's Motion for Summary Judgment. [D.E. 53]
4. On May 27, 2025, Plaintiff served a Notice of Deposition on Defendant, Mario Mirabal, scheduling the deposition for June 10, 2025, at 10:30 a.m. [D.E. 57]

5. On May 28, 2025, at 2:43 a.m., Defendant filed a Notice of Filing relating to the deposition set for June 10, 2025.

6. The Notice filed on May 28, 2025, includes a reference to objecting to the June 10, 2025, deposition.

7. Plaintiff has made attempts to coordinate the Defendant's deposition, including emails sent to the Defendant, however, the Defendant has failed to cooperate in setting a mutually agreeable date and time.

8. As set forth above undersigned counsel has made diligent efforts to resolve this matter without court intervention, including emailing the Defendant with several proposed deposition dates.

9. Despite these efforts, Defendant has not provided any alternative dates or times for the deposition, nor has Defendant's counsel responded to Plaintiff's attempts to coordinate.

LEGAL AUTHORITY

Under the Florida Rules of Civil Procedure, Rule 1.310, a party may take the deposition of any person, including a party, by oral examination. Fla. R. Civ. P. 1.380(a) provides that if a party fails to appear for a deposition after being served with proper notice, the court may order sanctions, including compelling the deposition.

CONCLUSION

Plaintiff respectfully requests that this Court enter an order compelling Defendant to appear for deposition on a date and time certain, as determined by the Court. Plaintiff further requests any other relief the Court deems just and proper including an award of attorneys fees and costs for having to bring this motion.

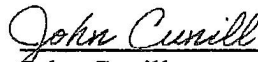
CERTIFICATE OF GOOD FAITH ATTEMPT TO RESOLVE

Undersigned counsel hereby certifies that a good faith effort has been made to resolve the issues raised in this motion without court intervention. Despite these efforts, the parties have been unable to reach an agreement.

Respectfully submitted this 28th day of May 2025.

CERTIFICATE OF SERVICE

I certify that a copy of this document was electronically served via the Florida Courts E-Filing Portal and mailed to MARIO MIRABAL, 563 W. 49th Street, Miami Beach, FL 33140, e-mail address solphax@gmail.com, pursuant to Florida Rule of Judicial Administration 2.514 on May 28, 2025.



John Cunill

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Secondary E-Mail: john@adornocunill.com

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE
DISCLOSURE STATEMENT

Unified List for All Related Federal Appeals

Pursuant to 11th Cir. R. 26.1-1 through 26.1-3, the undersigned certifies that the following individuals, entities, attorneys, and judges have an interest in the outcome of this appeal or are related to the underlying and parallel proceedings:

Relator / Appellant / Petitioner

– Mario Mirabal (Pro Se)

Opposing Parties / Appellees / Plaintiffs

– Deutsche Bank National Trust Company

– PHH Mortgage Corporation (servicer)

– KP Investments Miami, LLC

-- RAS LaVrar, LLC

Attorneys for KP Investments / Deutsche Bank

– John Cunill, Esq. – The Cunill Law Firm, PA

– Kenneth Damas – formerly of Adorno & Cunill, P.A.

– Mehwish A. Yousuf – Counsel for Deutsche Bank

-- Ari Newman Counsel for Deutsche Bank

-- Matthew Marks Counsel for Deutsche Bank

Presiding Judges in Related Federal District Court Cases

- Judge Jose E. Martinez (S.D. Fla.) – Cases: 1:25-cv-20747-JEM, 1:25-cv-20746-JEM
- Judge Paul C. Huck (S.D. Fla.) – Case: 1:25-cv-20010-PCH
- Judge Jacqueline Becerra (S.D. Fla., reassigned case) – Case: 1:25-cv-20011-JEM

State Court Judges in Underlying Litigation

- Judge Javier Enriquez – 2018-018704-CA-01 (Deutsche Bank)
- Judge Brinkley -- formerly assigned
- Judge Bokor -- formerly assigned
- Judge Jason Dimitris – 2022-004706-CA-01 (KP Investments, Specific Performance)
- Judge Ariana Fajardo Orshan – 2024-022769-CA-01 (KP Investments, Ejectment)
- Judge David Miller (formerly assigned in specific performance suit)
- Judge Corali Lopez-Castro – Bankruptcy Court (adversary proceeding dismissed)

Appellate Courts & Cases (11th Circuit)

- 25-10858 – KP v. Mirabal (District: 1:25-cv-20688-JEM)
- 25-10862 – KP v. Mirabal (District: 1:25-cv-20747-JEM)
- 25-11120 – In re: Mario Mirabal (Writ re: Judge Martinez/Orshan Remand Protective Filling)

- 25-11182 – In re: Mario Mirabal (Second Writ – Protective Filing)
- 25-11183 – In re: Mario Mirabal (Writ re: Judge Huck and Case 1:25-cv-20010-PCH protective Filling)
- 25-11254 – In re: Mario Mirabal (Writ of Mandamus arising from Case No. 1:25-cv-20688-JEM Judge Jose E. Martinez)

State Appellate Court

- 3D2025-0540 – 3rd District Court of Appeal (FL) – Appeal of Orshan default judgment while under 11th District US Appeals Court jurisdiction

The undersigned affirms this list is complete and accurate to the best of his knowledge and will be updated as necessary.

Respectfully submitted,

Mario Mirabal, Pro Se

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